

By:

Brown

2/8

S.J.R. No. 16

~~SENATE~~  
JOINT RESOLUTION

proposing a constitutional amendment relating to the manner in which a person is charged with a criminal offense, to the jurisdiction of the courts in criminal cases, and to certain requirements applicable to state writs and processes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article V, Section 12, of the Texas Constitution is amended to read as follows:

<sup>Section</sup> 12. (a) All judges of courts of this State, by virtue of their office, are [be] conservators of the peace throughout the State. [~~The style of all writs and process shall be, The State of Texas. All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude. Against the peace and dignity of the State.~~]

(b) An indictment is a written instrument presented to a court by a grand jury charging a person with the commission of an offense. An information is a written instrument presented to a court by an attorney for the State charging a person with the commission of an offense. The practice and procedures relating to the use of indictments and informations, including their necessity, contents, amendment, sufficiency, and requisites, are as provided by law. The presentment of an indictment or information to a court invests the court with jurisdiction of the cause. If the court does not have jurisdiction over the subject matter of the cause, it shall transfer the cause to a court that does have that

S.J.R. No. 16

1 jurisdiction. "

2       SECTION 2. This proposed constitutional amendment shall be  
3 submitted to the voters at an election to be held November 5, 1985.  
4 The ballot shall be printed to provide for voting for or against  
5 the proposition: "The constitutional amendment relating to the  
6 manner in which a person is charged with a criminal offense and to  
7 the jurisdiction of the courts in criminal cases."

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 5, 1985

Honorable Kent A. Caperton, Chairman  
Committee on Criminal Justice  
Senate Chamber  
Austin, Texas

In Re: Senate Joint Resolution No. 16  
By: Brown


Sir:

In response to your request for a Fiscal Note on Senate Joint Resolution No. 16 (proposing a constitutional amendment relating to the manner in which a person is charged with a criminal offense, to the jurisdiction of the courts in criminal cases, and to certain requirements applicable to state writs and processes) this office has determined the following:

The resolution would make no appropriation but could provide the legal basis for an appropriation of funds.

The cost of publication of the resolution to the State is \$48,100.

No additional fiscal implication to the State or units of local government is anticipated.

  
Jim Oliver  
Director

Source: LBB Staff: JO, JH, LV

1 By: Brown S.J.R. No. 16  
2 (In the Senate - Filed February 8, 1985; February 11, 1985,  
3 read first time and referred to Committee on Criminal Justice;  
4 March 20, 1985, reported adversely, with favorable Committee  
5 Substitute; March 20, 1985, sent to printer.)

6 COMMITTEE SUBSTITUTE FOR S.J.R. No. 16 By: McFarland

7 SENATE JOINT RESOLUTION

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9 which a person is charged with a criminal offense and to certain  
10 requirements applicable to state writs and processes.

11 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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13 is amended to read as follows:

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15 virtue of their office, are [be] conservators of the peace  
16 throughout the State. [~~The style of all writs and process shall~~  
17 ~~be,--'The State of Texas.'--All prosecutions shall be carried on in~~  
18 ~~the name and by authority of the State of Texas,--and shall~~  
19 ~~conclude,--'Against the peace and dignity of the State.'~~]

20 "(b) An indictment is a written instrument presented to a  
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22 offense. An information is a written instrument presented to a  
23 court by an attorney for the State charging a person with the  
24 commission of an offense. The practice and procedures relating to  
25 the use of indictments and informations, including their contents,  
26 amendment, sufficiency, and requisites, are as provided by law.  
27 The presentment of an indictment or information to a court invests  
28 the court with jurisdiction of the cause."

29 SECTION 2. This proposed constitutional amendment shall be  
30 submitted to the voters at an election to be held November 5, 1985.  
31 The ballot shall be printed to provide for voting for or against  
32 the proposition: "The constitutional amendment relating to the  
33 manner in which a person is charged with a criminal offense and to  
34 certain requirements applicable to state writs and processes."

35 \* \* \* \* \*

36 Austin, Texas  
37 March 20, 1985

38 Hon. William P. Hobby  
39 President of the Senate

40 Sir:

41 We, your Committee on Criminal Justice to which was referred S.J.R.  
42 No. 16, have had the same under consideration, and I am instructed  
43 to report it back to the Senate with the recommendation that it do  
44 not pass, but that the Committee Substitute adopted in lieu thereof  
45 do pass and be printed.

46 Caperton, Chairman

## BILL ANALYSIS

S.J.R. 16 by Brown

A Joint Resolution proposing a constitutional amendment relating to the manner in which a person is charged with a criminal offense, to the jurisdiction of the courts in criminal cases, and to certain requirements applicable to state writs and processes.

### Background Information:

Article V, Section 12, of the Texas Constitution currently requires certain language to be present in indictments or the subsequent conviction is subject to reversal on appeal. The Court of Criminal Appeals has interpreted this to mean that if the language is not present in the indictment, the defendant's conviction may be overturned. Furthermore, under current law, technical amendments of form cannot be made on an indictment. This causes unnecessary delays and reversals in criminal cases.

### Problem That This Bill Addresses:

Article V, Section 12, of the Texas Constitution currently provides: The style of all writs and process shall be, "The State of Texas." All prosecutions shall be carried on in the name and by authority of the State of Texas, and shall conclude "Against the peace and dignity of the State." This resolution would omit this language and allow the legislature to determine the practice and procedures relating to indictments and informations as they deem necessary.

### How This Bill Will Solve the Problem:

By omitting the Constitutional language in an indictment, this bill allows for fewer technical conviction reversals if it has been mistakenly omitted from an indictment or information. In addition, the language of an indictment, and other requisites will be amendable by the legislature as the needs of the criminal justice system change. Thereby speeding the trial process and avoiding reversals of cases for mere technicalities that do not affect the substantive rights of defendants.

### Section by Section Analysis:

SECTION 1: Amends Article V, Section 12, of the Texas Constitution.

- (a) Omits the style of all writs and processes language.
- (b) Defines an indictment and information. Provides that the practice and procedures relating to the use of indictments and information are as provided by law. States that the presentment of an indictment or information to a court invests that court with jurisdiction of the cause.

SECTION 2: Provides for submission to voters November 5, 1985, style of ballot.

### Changes in Agency Rulemaking Authority:

Committee's opinion that this bill does not delegate rulemaking authority to a state officer, agency, department or institution.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 5, 1985

Honorable Kent A. Caperton, Chairman  
Committee on Criminal Justice  
Senate Chamber  
Austin, Texas

In Re: Senate Joint Resolution No. 16  
By: Brown


Sir:

In response to your request for a Fiscal Note on Senate Joint Resolution No. 16 (proposing a constitutional amendment relating to the manner in which a person is charged with a criminal offense, to the jurisdiction of the courts in criminal cases, and to certain requirements applicable to state writs and processes) this office has determined the following:

The resolution would make no appropriation but could provide the legal basis for an appropriation of funds.

The cost of publication of the resolution to the State is \$48,100.

No additional fiscal implication to the State or units of local government is anticipated.

  
Jim Oliver  
Director

Source: LBB Staff: JO, JH, LV

*[Handwritten mark]*

March 21 1985 Engrossed  
*[Signature]*  
Engrossing Clerk

I certify that the attached is a true and correct  
copy of SJR 16, which was  
received from the Senate on MAR 25 1985 and  
referred to the Committee on Crim Jurs.  
*[Signature]*  
Chief Clerk of the House

By: Brown S.J.R. No. 16  
(Smith of Travis)

SENATE JOINT RESOLUTION

proposing a constitutional amendment relating to the manner in  
which a person is charged with a criminal offense and to certain  
requirements applicable to state writs and processes.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article V, Section 12, of the Texas Constitution  
is amended to read as follows:

"Section 12. (a) All judges of courts of this State, by  
virtue of their office, are ~~[be]~~ conservators of the peace  
throughout the State. ~~[The style of all writs and process shall  
be,--The State of Texas;--All prosecutions shall be carried on--in  
the--name--and--by--authority--of--the--State--of--Texas;--and shall  
conclude---Against the peace and dignity of the State.]~~

"(b) An indictment is a written instrument presented to a  
court by a grand jury charging a person with the commission of an  
offense. An information is a written instrument presented to a  
court by an attorney for the State charging a person with the  
commission of an offense. The practice and procedures relating to  
the use of indictments and informations, including their contents,  
amendment, sufficiency, and requisites, are as provided by law.  
The presentment of an indictment or information to a court invests  
the court with jurisdiction of the cause."

SECTION 2. This proposed constitutional amendment shall be  
submitted to the voters at an election to be held November 5, 1985.  
The ballot shall be printed to provide for voting for or against

S.J.R. No. 16

1 the proposition: "The constitutional amendment relating to the  
2 manner in which a person is charged with a criminal offense and to  
3 certain requirements applicable to state writs and processes."



# LEGISLATIVE BUDGET BOARD

Austin, Texas

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Jim Oliver  
Director

Source: LBB Staff: JO, JH, LV

# HOUSE COMMITTEE REPORT

1st. Printing

By: Brown  
(Smith of Travis)

S.J.R. No. 16

## SENATE JOINT RESOLUTION

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SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 5, 1985. The ballot shall be printed to provide for voting for or against

1 the proposition: "The constitutional amendment relating to the  
2 manner in which a person is charged with a criminal offense and to  
3 certain requirements applicable to state writs and processes."

COMMITTEE REPORT

The Honorable Gib Lewis  
Speaker of the House of Representatives

4-10-85  
(date)

Sir:  
We, your COMMITTEE ON CRIMINAL JURISPRUDENCE, to whom was referred SJR 16 have had the same under consideration and beg to report back with the recommendation that it (measure)

- (X) do pass, without amendment.
- ( ) do pass, with amendment(s).
- ( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes ( ) no An actuarial analysis was requested. ( ) yes (X) no

An author's fiscal statement was requested. ( ) yes (X) no

The Committee recommends that this measure be placed on the ~~XXXXXXX~~ Consent Calendar.

This measure (X) proposes ~~new law~~ amends existing law a constitutional amendment.

House Sponsor of Senate Measure T. Smith

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	X			
Polumbo, V.C.				X
Waldrop, C.B.O.				X
Blackwood	X			
Danburg				X
Hury				X
Morales	X			
Parker	X			
Schoolcraft	X			

Total  
5 aye  
0 nay  
0 present, not voting  
4 absent

Terry J. Peterson  
CHAIRMAN  
Laura Calper  
COMMITTEE COORDINATOR

## BILL ANALYSIS

### Background Information

A line of Court of Criminal Appeals cases holds that certain language is constitutionally required in indictments. Failure to include that language will result in reversal on appeal.

### Purpose of the Resolution

This resolution would allow the Legislature by statute to determine the practice and procedures relating to indictments and informations, including requisites and amendment.

### Section by Section Analysis

- Section 1. Amends Article 5, Section 12, of the Texas Constitution to delete formal language requirements of writs, processes, and charging instruments in criminal cases. Provides the purpose of presentment of indictment and information and that procedures regarding these instruments are as provided by law.
- Section 2. Provides for submission to voters on November 5, 1985, and for style of ballot.

### Rulemaking Authority

It is the opinion of the Committee that this resolution does not delegate rulemaking authority to a state officer, agency, department, or institution.

### Summary of Committee Action

Public notice was posted in accordance with the Rules of Procedure of the House of Representatives and a public hearing was held on April 10, 1985. There were no witnesses on the resolution. On April 10, 1985, the full committee voted to report SJR 16 to the House without amendments and the recommendation that it do pass by a record vote of 5 ayes and zero nays.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

April 4, 1985

Honorable Terral Smith, Chair  
Committee on Criminal Jurisprudence  
House of Representatives  
Austin, Texas

In Re: Senate Joint Resolution No. 16,  
as engrossed  
By: Brown

Sir:

In response to your request for a Fiscal Note on Senate Joint Resolution No. 16, as engrossed (proposing a constitutional amendment relating to the manner in which a person is charged with a criminal offense, to the jurisdiction of the courts in criminal cases, and to certain requirements applicable to state writs and processes) this office has determined the following:

The resolution would make no appropriation but could provide the legal basis for an appropriation of funds.

The cost of publication of the resolution to the State is \$48,100.

No additional fiscal implication to the State or units of local government is anticipated.

  
Jim Oliver  
Director

Source: LBB Staff: JO, JH, PA

# LEGISLATIVE BUDGET BOARD

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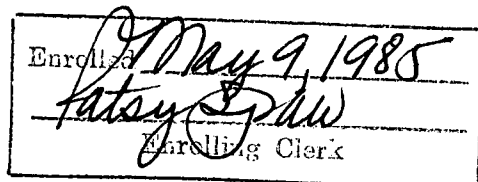
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S.J.R. No. 16

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S.J.R. No. 16

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2 manner in which a person is charged with a criminal offense and to  
3 certain requirements applicable to state writs and processes."

---

President of the Senate

---

Speaker of the House

I hereby certify that S.J.R. No. 16 was adopted by the Senate  
on March 21, 1985, by the following vote: Yeas 26, Nays 0.

---

Secretary of the Senate

I hereby certify that S.J.R. No. 16 was adopted by the House  
on May 8, 1985, by the following vote: Yeas 129, Nays 8, one  
present not voting.

---

Chief Clerk of the House

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE**

April 4, 1985

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Committee on Criminal Jurisprudence  
House of Representatives  
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Source: LBB Staff: JO, JH, PA

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Jim Oliver  
Director

Source: LBB Staff: JO, JH, LV

S.J.R. No. 16

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.J.R. No. 16 (1) was ~~passed~~ <sup>adopted</sup> by the Senate on March 21 (2), 1985, by the following vote: Yeas 26 (3), Nays 0 (4).

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.J.R. No. 16 (1) was ~~passed~~ <sup>adopted</sup> by the House on May 8 (5), 1985, by the following vote: Yeas 129 (6), Nays 8 (7), one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

Troping a constitutional amendment relating to the manner in which a person is charged with a criminal offense, to the jurisdiction of the courts in criminal cases, and to certain requirements applicable to state writs and processes.

2-8-85 Filed with the Secretary of the Senate

**CRIMINAL JUSTICE**

~~FEB 11 1985~~ Read, referred to Committee on

Reported favorably.

**MAR 20 1985** Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed.

**MAR 21 1985** Ordered not printed. \_\_\_\_\_  
Senate and Constitutional Rules to permit consideration suspended by  
unanimous consent.  
\_\_\_\_\_ yeas, \_\_\_\_\_ nays.

To permit consideration, reading and passage, Senate and Constitutional Rules  
suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

MAR 21 1985 Read second time and { ordered engrossed.  
~~passed to third reading.~~

Caption ordered amended to conform to body of bill.

MAR 21 1985 Senate and Constitutional 3-Day Rules suspended by vote of  
26 yeas, 0 nays to place bill on third reading and final passage.

MAR 21 1985 Read third time and passed by a viva-voce vote.  
26 yeas, 0 nays.

**OTHER ACTION:**

Betty King  
Secretary of the

Secretary of the Senate

*Patsy Spaw*  
ENGROSSING C

## ENGROSSING CLERK

**MAR 25 1965**

**Received from the Senate**

**MAR 26 1985**

**Read first time and referred to Committee on**

4-10-8E

**Reported favorably amended, sent to Printer**

APR 15 1985

## Printed and Distributed

APR 15 1985

**Sent to Committee on Calendars**

**MAY 8 1969**

**Read second time (amended) and finally adopted**

~~failed adoption~~ by Record Vote of

129 yeas 8 nays 1 present not voting

**Read third time (amended) and finally adopted**

failed adoption by a Record Vote of

\_\_\_\_\_ yeas \_\_\_\_\_ nays \_\_\_\_\_ present not voting

**Caption ordered amended to conform to body of resolution**

**MAY 9 1985**

### Returned to Senate.

MAY 9 1985

**RETURNED FROM HOUSE**

*Bertie Murray*  
Chief Clerk of the House

Chief Clerk of the House

March 24, 1985 Engrossed

March 25, 1985 Sent to HOUSE